IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FIFTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 15354 of 2005

Between:

Vallurupalli Jagadeeshwara Rao

..... PETITIONER

AND

The Superintendent of Police
Eluru W.G.Dist. and 3 others

.....RESPONDENTS

ORDER:

Seeking a Mandamus declaring the action of the 1st and 2nd respondents keeping quiet inspite of several representations, especially the representation dated 01.04.2005 to the 1st respondent to prevent the high handed interference of the 3rd and 4th respondents and their family members having obtained an undertaking from the 3rd and 4th respondents in pursuance of the directions in W.P.No.21956 of 2004 dated 13.11.2004 as illegal and arbitrary, and consequently direct the 1st and 2nd respondents to give necessary police aid to the petitioner pending reconstruction of court bundle in C.R.P.No.754 of 2002, the present writ petition is filed.

Heard the learned counsel for the petitioner, learned Government Pleader for Home and the learned counsel appearing for the 3rd and 4th respondents.

Originally the petitioner herein obtained injunction orders on 11.03.1996 in I.A.No.213 of 1996 in O.S.No.21 of 1996 on the file of the Subordinate Judge, Tadepalligudem against five persons. The present respondents 3 and 4 are not parties to the said injunction petition. The petitioner contends that inspite of the said injunction orders granted and in pursuance of the directions of this Court dated 06.12.2004 passed in W.P.No.21956 of 2004, respondents 1 and 2 have not been taken any action in giving protection to the property of the petitioner from the high handed interference of the respondents 3 and 4 and hence, he prays to allow the writ petition.

The learned Government Pleader for Home contends that the 2nd respondent is not either helping the respondents 3 and 4 or supporting their acts and therefore, the writ petition is devoid of merits.

The learned counsel for the respondents 3 and 4 contends that respondents 3 and 4 are not the parties to the injunction petition and there are no grounds to entertain the writ petition.

Admittedly, the injunction order is against some third parties, but no injunction was granted against respondents 3 and 4 herein. It is the contention of the learned counsel for the petitioner that the 3rd and 4th respondents have purchased the property under a registered sale deed after granting injunction, therefore, respondents 3 and 4 are also binding with the injunction order. Whether respondents 3 and 4 have purchased the property knowing about the grant of injunction against their vendors, is to be decided by a competent Civil Court. Subsequently, the petitioner also filed an application for grant of injunction against respondents 3 and 4, but as on today no injunction is passed against respondents 3 and 4. It is contended by the learned counsel for the respondents 3 and 4 that respondents 3 and 4 have already filed a suit against the petitioner herein and others in O.S.No.141 of 1996 on the file of the Principal District Munsif, Tadepalligudem for injunction and the same was also transferred to the Court of the Senior Civil Judge, Tadepalligudem and is pending trial. Therefore, the prima facie title of parties over the property in question has to be decided by the competent Civil Court.

No doubt by orders dated 06.12.2004 in W.P.No.21956 of 2004, this Court held that it is made clear that in case respondents 3 and 4 resort to any acts contrary to the undertaking furnished by them, the 2nd respondent shall take immediate and necessary steps. But at the same time, who is in possession of the property and who has got prima facie title and possession in respect of the property in question are required to be heard and decided by the competent Civil Court. As on today no injunction lies against respondents 3 and 4.

Admittedly, the petitioner has not filed any application before the competent civil court seeking police aid. But, however, it is stated that the petitioner made several representations to the respondents 1 and 2, but they have not taken any action. Since the matter is purely civil in nature and has to be decided by the competent Civil Court, no directions can be given to the respondents 1 and 2. Therefore, the writ petition is devoid of merits and liable to be dismissed.

Accordingly, the Writ Petition is dismissed. No order as to costs.

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K.C. BHANU,J

Dated: 05.09.2005

Dsr